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January 29, 1997

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

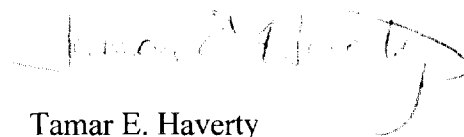
Re: Comments of Telco Communications Group, Inc. Submitted in Response to the
FCC's Notice of Proposed Rulemaking in the Matter of Access Charge Reform,
CC Docket No. 96-262

Dear Mr. Caton:

Enclosed for filing, please find an original and sixteen (16) copies of the Comments of Telco Communications Group, Inc. in the above-referenced docket.

Also enclosed is a diskette copy of this filing. If you have any questions, please do not hesitate to call me at (202) 945-6917.

Sincerely,


Tamar E. Haverty

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review)	CC Docket No. 94-1
for Local Exchange Carriers)	
)	
Transport Rate Structure)	CC Docket No. 91-213
and Pricing)	
)	
Usage of the Public Switched)	CC Docket No. 96-263
Network by information Service)	
and Internet Access Providers)	

COMMENTS OF
TELCO COMMUNICATIONS GROUP, INC.

January 29, 1997

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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**COMMENTS OF
TELCO COMMUNICATIONS GROUP, INC.**

Telco Communications Group, Inc. and its subsidiaries Dial & Save and Long Distance Wholesale Club (together "Telco"), by undersigned counsel and pursuant to the Federal Communications Commission's ("FCC") Notice of Proposed Rulemaking issued in the above-captioned proceeding¹ (released December 24, 1996), hereby submit the following Comments.

¹*In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, and Usage of the Public Switched Network by Information Service and Internet Access Providers*, FCC 96-488, CC Docket Nos. 96-262, 94-1, 91-213, and 96-263, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry (rel. Dec. 24, 1996) ("Notice" or "NPRM").

Introduction and Summary

Telco has been providing long distance services for approximately three years. Telco is authorized to provide long distance telecommunications services on an intrastate basis in every state except Alaska and Hawaii. Telco provides long distance telecommunications services through a combination of its own switches and the resold services of other carriers.

Telco is actively seeking to enter the local exchange market on a resale basis and has filed applications for authority to provide resold local exchange service in a number of states. Telco plans to provide local service in conjunction with its provision of long distance services. As an interexchange reseller and a new entrant in the local exchange market, Telco is keenly interested in the FCC's access charge reform rulemaking.

In these Comments, Telco urges the FCC to adopt a prescriptive approach to access charge reform and reduce access charges to cost-based rates as soon as possible. Furthermore, in order to reduce market distortions created by regulatory policies, Telco asks the FCC to (1) direct the States to adopt intrastate access charges that are substantially similar to interstate rates and (2) base access charges on the same pricing standards adopted for the purchase of interconnection, unbundled network elements, and collocation.

I. The FCC Should Take a Prescriptive Approach to Access Reform and Quickly Reduce Access Charges to Costs.

As the FCC recognizes in its Notice, the choice of a market-based or prescriptive approach to reducing access charges could have significant implications for Bell Operating Company ("BOC")

provision of in-region long distance services.² If the BOCs are allowed to provide in-region interLATA long distance services and access charges are maintained at rates that exceed the economic cost of providing access, the BOCs will have an overwhelming cost advantage. Although the BOC in-region long distance subsidiary will pay the same above-cost access charges paid by its long distance carrier rivals, the BOC will essentially be making above-cost payments to itself. A BOC will thus be able to provide in-region long distance services at the incremental cost of access services (and reap a substantially higher profit than its long distance competitors) or reduce its retail long distance rates to drive its long distance rivals out of the market. Although the alternative of cost-based unbundled network elements may reduce the BOCs' cost advantage in the long run, the mere availability of unbundled network elements does little to reduce the cost advantage in the short run. Until interexchange carriers' ("IXCs") local subsidiaries (or other competitive local exchange carriers) establish significant local market share, IXCs will be forced to utilize the BOCs' above-cost access services.³ Therefore, if the FCC anticipates that BOCs will be authorized in the near future to provide in-region interLATA services, it should move quickly to reduce access charges closer to cost prior to authorizing such entry. The FCC's other proposed alternative of taking a market-based

²Notice at ¶ 148.

³See, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Order on Reconsideration, 11 FCC Rcd 13042, ¶ 13 (1996) ("Interconnection Reconsideration Order"). In the Interconnection Reconsideration Order, the FCC restricts requesting carriers' use of unbundled local switching elements. A requesting carrier may only use the unbundled local switching element to provide interexchange service to end users that also purchase local exchange service from the requesting carrier.

approach, while well-meaning, cannot be reasonably expected to move access charges to costs before the BOCs are allowed to provide interLATA long distance services.

The FCC should take the following steps to reduce access charges to cost: reduce CCL charges; phase out the transport interconnection charge ("TIC") over a well-defined period of no more than 3 years; require parity of inter- and intrastate access charges; and reform tandem-switched transport rates.

A. The FCC Should Reduce Carrier Common Line (CCL) Charges

CCL charges generate substantial subsidies. Restructuring CCL charges to eliminate these economically inefficient subsidies is an important policy goal as the industry moves towards a competitive market structure.

CCL rates are presently assessed on a per-minute basis and are paid by long distance carriers on switched access traffic that originates or terminates on incumbent local exchange carriers' ("LECs") networks. CCL charges are intended to recover a portion of the incumbent LECs' revenue requirements associated with the non-traffic sensitive ("NTS") plant (*i.e.*, local loop facilities). That is, incumbent LECs recover the embedded costs of local loop facilities through a combination of charges paid by end-users and charges paid by long distance carriers.

This rate structure creates two types of "subsidies." First, the costs of the local loop are not caused by long distance usage, but are caused by customers' decisions to subscribe to telephone service. Thus, individuals and companies that place long distance calls subsidize the costs of local loops of individuals who do not make as many long distance calls.

Second, the growth in CCL revenues does not match the growth in NTS costs. Because CCL rates are assessed on a per-minute basis, CCL revenues grow as long distance traffic grows. In contrast, NTS costs grow only when new loops are added. Because long distance traffic grows substantially faster than loops, absent a mechanism to continually reduce CCL rates, incumbent LECs realize a "windfall" when the CCL revenue stream grows faster than their non-traffic sensitive loop costs. Telco urges the FCC to address this disparity by reducing CCL charges and eliminating the per-minute CCL charge. The FCC should establish a per-line charge for non-traffic sensitive costs recovered from long distance firms that is based on a proxy-cost measure of NTS loop costs.

B. The FCC Should Phase Out Transport Interconnection Charges

Telco supports the FCC's third option for reform of transport interconnection charges ("TIC") -- reassign easily identifiable costs to facility-based elements where warranted and phase out the TIC completely. The TIC is a per-minute charge assessed on all switched access minutes, including those of competitors that interconnect with the incumbent LEC's switched access network through expanded interconnection. Because the TIC is not cost-based, it is effectively a make-whole mechanism that allows incumbents to price transport at below-cost rates and recover the shortfall regardless of whether or not the incumbent provides transport facilities to the carrier paying the TIC. Thus, a collocated competing transport provider must meet or beat the incumbent's transport rates *and* pay the TIC to the incumbent to maintain the incumbent's transport revenue requirements. That is obviously not a rate structure that encourages the development of access competition. The TIC therefore must be eliminated in order to achieve market-based incentives in the provision of access

services. The TIC was always intended to be a transitional mechanism⁴ and, under the Court's holding in *CompTel v. FCC*,⁵ the FCC must take action to justify or eliminate the TIC. Telco recommends that the FCC eliminate the TIC over a transition period of no more than 3 years.

C. *There Should Be Parity Between Inter- and Intrastate Access Charges*

Any action by the FCC to reduce interstate access charges to cost must be accompanied by similar action at the state level. Incumbents incur the same costs to provide access services whether those services are provide inter- or intrastate. Large disparities between inter- and intrastate access prices may encourage misreporting and jurisdictional gaming by carriers. To reduce these incentives, the FCC should require parity, or near parity, of inter- and intrastate access charges. The FCC should not allow inflated intrastate access charges to frustrate its pro-competitive access reforms.

D. *Tandem-Switched Transport Rate Reform Is Needed*

The FCC should implement a transport structure that allocates a portion of common transport costs to dedicated transport rates in recognition that common transport facilities are often sized to handle overflow from larger carriers that use dedicated transport. Smaller IXC's such as Telco normally do not have the volume necessary to justify purchase of dedicated transport facilities from the LEC and must therefore purchase and pay for common transport. Larger IXC's, such as AT&T, MCI and Sprint, that utilize dedicated transport facilities also pay for common transport, but only

⁴Notice at ¶ 97.

⁵The D.C. Circuit has ordered the FCC to either eliminate the TIC or provide a reasoned explanation for the TIC. *CompTel v. FCC*, 87 F.3d 522, 536 (D.C. Cir. 1996).

when their traffic volumes exceed the capacity of their dedicated transport. Since the cost of common transport is recovered by usage-sensitive rates, dedicated transport carriers do not pay the full costs attributable to sizing common transport facilities to accommodate their overflow traffic. Telco therefore recommends that the FCC require some portion of tandem switching costs to be recovered from direct-trunked transport rates.

II. Access Charges Should Reflect TELRIC and Should Not Be Based on Incumbents' Embedded Costs

In order to remove any potential market-distorting incentives regarding a carrier's choice between incumbent LECs' access services and the purchase of unbundled network elements to provide switched access, the FCC must base the prices for access and interconnection on the same standard -- Total Element Long Run Incremental Cost ("TELRIC"). As the FCC has previously noted, implementation of Section 251 of the 1996 Act⁶ is integrally related to reform of the interstate access charge system and, in order to achieve pro-competitive, deregulatory markets for all telecommunications services, access charges must be moved to more cost-based and economically efficient levels:

It is widely recognized that, because a competitive market drives prices to cost, a system of charges which includes non-cost based components is inherently unstable and unsustainable.⁷

⁶*Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56 (1996) ("1996 Act").

⁷*In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶ 8 (1996) ("Interconnection Order"). See also *Id.* at ¶ 716.

Telco believes that the FCC's rationale for adopting a cost-based pricing methodology under Section 251 applies with equal force in this docket:

In dynamic competitive markets, firms take action based not on embedded costs, but on the relationship between market-determined prices and forward-looking economic costs. If market prices exceed forward-looking economic costs, new competitors will enter the market. If their forward-looking economic costs exceed market prices, new competitors will not enter the market and existing competitors may decide to leave. ... because the cost of building an element is based on forward-looking economic costs, new entrants' investment decisions would be distorted if the price of unbundled elements were based on embedded costs.⁸

In a competitive market, no firm is guaranteed recovery of its embedded costs. If the FCC wishes to introduce competition in the access market and reduce regulatory distortions that may influence a carrier's decision to purchase unbundled network elements instead of access, it must set prices for access that are based on TELRIC and do not guarantee incumbents recovery of their embedded access costs.

⁸Interconnection Order at ¶ 620.

Conclusion

Telco supports the FCC's efforts to move access charges to costs. A system of cost-based access charges is consistent with the pro-competitive intent of the 1996 Act. Telco therefore urges the FCC to act expeditiously and quickly move access charges to cost-based rates.

Respectfully submitted,



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January 29, 1997


CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January, 1997, a copy of the foregoing Comments of Telco Communications Group, Inc. were served via hand delivery on the following:

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Federal Communications Commission
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Washington, DC 20554

Competitive Pricing Division (2 copies)
Common Carrier Bureau
Federal Communications Commission
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Wendy Mills